

REMARKS

Claims 1-10, 12-21, and 23-32 are pending in the application.

Claims 1-10, 12-21, and 23-31 have been rejected.

Claim 32 has been allowed.

Claims 1, 12, 23 and 30 are amended.

Unless otherwise specified in the below discussion, Applicants have amended the above-referenced claims in order to provide clarity or to correct informalities in the claims. Applicants further submit that, unless discussed below, these amendments are not intended to narrow the scope of the claims. By these amendments, Applicants do not concede that the cited art is prior to any invention now or previously claimed or that there was any ambiguity associated with the claims as originally presented. Applicants further reserve the right to pursue the original versions of the claims in the future, for example, in a continuing application.

Allowable Claims

Applicants thank the Examiner for the indication that Claim 32 is allowable as written. Applicants also thank the Examiner for the indication that the remaining claims would be allowable if amended as presented in the Office Action and as discussed below.

Rejection of Claims under 35 U.S.C. § 112

Claims 1-10, 12-21, and 23-31 stand rejected under 35 U.S.C. § 112 second paragraph as purportedly being indefinite for failing to particularly point out and

distinctly claim the subject matter which Applicants regard as the invention. In particular, the Office Action suggests that the phrase “‘estimating a ... link error rate ... using ... a hysteresis factor’ is apparently incorrect, as a ‘hysteresis’ is apparently only involved in determining an alarm state, not an error rate.” Office Action, p.2. Applicants respectfully traverse this rejection by amending the claims.

While not conceding in the interpretation of the claims as expressed by the Office Action, Applicants have considered the amended language suggested in the Office Action and have adopted this language in amended Claims 1, 12, 23 and 30. The Office Action indicates that Claims 1, 12, 23 and 30, and all claims depending therefrom, will be in allowable condition if amended as suggested. *See* Office Action, p.5.

For at least these reasons, and those expressed in previous responses to Office Actions, Applicants submit that independent Claims 1, 12, 23 and 30, as amended, and all claims depending therefrom are in condition for allowance. Applicants therefore respectfully request the Examiner’s reconsideration and withdrawal of the rejections to these claims and an indication of the allowability of same.

Rejection of Claims under 35 U.S.C. § 102

Claims 1-3, 6-8, 10, 12-14, 17-19, 21, 23-26 and 29-31 stand rejected under 35 U.S.C. § 102(b) as purportedly being anticipated by U.S. Patent No. 5,459,731 issued to Brief et al. (“Brief”). Applicants respectfully submit that in light of the above-discussed amendments to independent Claims 1, 12, 23 and 30, and the indication by the Office Action that these claims would be allowable if rewritten as indicated by the Office Action, that the rejections under 35 U.S.C. § 102 are moot. Applicants therefore

respectfully request the Examiner's reconsideration and withdrawal of the rejections to these claims and an indication of the allowability of same.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. Applicant also hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. § 1.16 or § 1.17, be charged to deposit account 502306.

Respectfully submitted,

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